IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 5027 of 2016 (O&M)
Date of Decision:08.02.2019

Reena Devi and others

......Appellants.

Versus

Ram Avtar Yadav and others

...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: None for the appellants.

Mr. Vinod Gupta, Advocate
for respondent no.3.

*****

LISA GILL, J.

Appellant-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'tribunal'), vide impugned award dated 21.03.2016, on account of death of Ashok Paswan.

None had appeared on behalf of the appellants on the last two occasions. Today, again there is no representation on behalf of the appellants. The insurance company whose liability is not in dispute is duly represented.

Though, the appeal can be dismissed in default, however, the said course is not being adopted as the present is an appeal filed by the claimants seeking enhancement of the compensation awarded on account of death of Ashok Paswan in the motor vehicle accident, which took place on 06.02.2013. It is considered just and expedient to decide the matter on merits rather than dismiss the same for non-appearance of the learned counsel for the appellants. Available file has been perused.

As per averments in the claim petition under Section 166 of the Motor Vehicles Act (for short 'Act'), Ashok Paswan son of late Bahadur Paswan, died in a motor vehicle accident which took place on 06.02.2013, at about 8.30.a.m., near Shingora Factory, Ludhiana, due to the rash and negligent driving of the offending vehicle by respondent no.1-Ram Avtar Yadav. FIR No. 40 dated 06.02.2013, under Sections 279, 304-A, 216 IPC, was registered at Police Station Focal Point, Ludhiana, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle i.e. truck tanker bearing registration no. PBL-711 by respondent no.1-Ram Avtar Yadav. Said finding of the learned tribunal has attained finality.

Income of the deceased was assessed as ₹5300/- per month. Deduction of 1/ 4th was effected. Multiplier of 16 was applied by the learned tribunal. A sum of ₹1,00,000/- was awarded towards love and affection and ₹25,000/- was awarded on account of funeral expenses etc. Learned tribunal awarded a sum of ₹9,88,200/- along with interest @6% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

I have perused the file and heard learned counsel for the Insurance Company.

There is no dispute regarding the death of Ashok Paswan in a motor vehicle accident which took place on 06.02.2013. Claimants are the widow, minor sons and widowed-mother of the deceased. The deceased was claimed to be working as a helper with Turbo Tools Private Limited, earning a monthly salary of ₹5300/- along with overtime, bonus etc., taking the income to ₹6000/-, though no documentary evidence was produced by the claimants. Learned tribunal accepted income of the deceased as ₹5300/- p.m. No ground is made out for enhancement of the income as assessed by the learned tribunal. Thus, income of the deceased as assessed by the learned tribunal as ₹5300/- per month is upheld. Future prospects at the rate of 40% are afforded in view of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**. Learned tribunal has rightly applied multiplier of 16 in view of the age of the deceased i.e. 32 years at the time of accident. Deduction of 1/ 4th has also been correctly effected by the learned tribunal. Claimants are also entitled to ₹15,000/- each on account of funeral expenses and loss of estate.

Furthermore, the claimant-appellants in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, 2018(4) R.C.R (Civil), 333**, are entitled to a sum of ₹40,000/- each for loss of consortium (spousal, parental and filal).

Compensation towards the claimants on account of death of Ashok Paswan is thus re-worked as under:-

1.	Total income of deceased	₹5300/- p.m
2.	Deduction of 1/4th on account of personal expenses	₹5300/– (₹6750*1/4=₹1325/-) = ₹3975/-
3.	Total income after addition of future prospects at the rate of 40%	₹3975/- (₹3975/-+ ₹1590/-) i.e. ₹5565/-
4.	Annual dependency after applying multiplier of 16	₹5575/- x 12 x 16= ₹10,68,480/-

5.	Funeral expenses	₹15,000/-
6.	Filial Consortium to mother	₹40,000/-
7.	Loss of estate	₹15,000/-
8.	For loss of consortium to widow	₹40,000/-
9.	Loss of parental consortium to minor children of the deceased @ 40,000/- each	₹80,000/-
10.	For loss of filial consortium to appellant no.4, mother of the deceased	₹40,000/-
	Total Compensation =	**₹12,58,480/-**

Claimants shall be entitled to interest on the entire compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall stand deducted.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants, shall enure.

Copy of the order be conveyed to the appellants at the address available on the file. In case of any grievance, the appellants are at liberty to move an appropriate application within two months of receipt of certified copy of this order.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

[LISA GILL]
Judge

08.02.2019
s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.